

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI (Northern (Jackson))**

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|--------------------------------|---|---|
| HOWARD BROWN and |) | |
| BRANDON SIBLEY, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| V. |) | Civil Action No. 3:23-cv-127-DPJ-FKB |
| |) | |
| CHOCTAW RESORT |) | |
| DEVELOPMENT ENTERPRISE, |) | |
| ET AL., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

**PROVISIONAL RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT (DOC. 13)**

COME NOW the Defendants by and through their counsel of record, C. Bryant Rogers, VanAmberg, Rogers, Yepa, Abeita, Gomez & Wilkinson, LLP, and for its Provisional Response to Plaintiffs' Motion for Summary Judgment (Doc. 13) state as follows:

1. For the reasons set out in Defendants' pending Motion to Stay (Doc 14), Defendants do not believe they should be required to respond to Plaintiffs' Doc. 13 Motion. However, since this Court may not rule upon Defendants' pending Motion to Dismiss for Plaintiffs' Failure to Exhaust Tribal Remedies (Doc. 6), or on Defendants' pending Motion to Stay these proceedings (Doc. 14), before Defendants' 14-day deadline to respond to Plaintiffs' Doc. 13 Motion, Defendants' hereby file the following provisional Response to that Doc. 13 Motion, with the request that the Court not reach or rule upon that Motion, but instead dismiss this action for Plaintiffs' failure to exhaust their tribal remedies.

2. In the event this Court nonetheless reaches and rules upon Plaintiffs' Doc. 13 Motion, Defendants request that the Court deny that Motion based on this Provisional Response

and the grounds set out in Defendants' separate Memorandum of Law supporting this provisional Response.

WHEREFORE, Defendants pray that this Court enter an Order declining to reach or rule upon Plaintiffs' Motion for Summary Judgment, but instead dismissing this action as requested by Defendants at Docs. 6, or if the Court reaches and rules upon Plaintiffs' Motion for Summary Judgment, that the Court enter an Order denying this Motion and for such other and further relief as the Court deems just.

Respectfully submitted,

VanAMBERG, ROGERS, YEPa, ABEITA
GOMEZ & WILKINSON, LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to the Plaintiffs by United States Mail, postage prepaid, on August 7, 2023,

/s/ C. BRYANT ROGERS
C. BRYANT ROGERS